

EXHIBIT "E" (3 of 4)

Susan Waters

1
2 A. I was not aware of how he used his
3 drugs.

4 Q. Did anybody, as far as you know,
5 ever check him for any kind of needle marks,
6 track marks?

7 A. I don't know.

8 Q. Did you ever make any inquiries of
9 Spencer into anything about his drug use?

10 A. No.

11 Q. Did you ever check him for any kind
12 of marks, such as needle marks?

13 A. I didn't do his intake.

14 Q. But at any other point, you didn't?

15 A. No.

16 Q. In terms of documenting the intake,
17 are you aware of whether the nurse is supposed to
18 create a Progress Note for all Receiving Screenings
19 that they do?

20 A. Before?

21 Q. At any point. In other words, the
22 inmate comes in, the nurse sees them.

23 Is the nurse supposed to put that in
24 a Progress Note?

25 A. Before November of '06, or after?

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Q. Oh, okay. I see. Did it change?

A. Now it is a requirement that we screen all inmates, do their vital signs, and write a Progress Note.

Q. Prior to November of '06, was that the policy?

A. Some nurses did write a Progress Note if there was something important to document; others did not.

Q. And in terms of any policies or procedures at AmeriCor that required that Progress Note prior to November of '06?

A. Repeat that, please.

Q. Were there any policies or procedures that required a Progress Note prior to November of '06?

A. I'm not sure if there was a policy or a procedure requiring.

Q. What was your practice? Did you make a Progress Note?

A. Yes, I always, to the best of my knowledge, wrote a Progress Note.

Q. Did you ever learn of any policies or procedures that required constant watch for an

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inmate who was at risk of progressing to have withdrawal symptoms?

A. I'm -- I don't know if there was a policy or procedure about that.

Q. I'm going to show you, again, Exhibit 25 and the page that is Bates stamped 561 at the bottom. It actually goes on to 562, just to put it in context for you. *(Handing)*

A. *(Witness peruses record)* um-hum.

Q. Were you aware of any policies or procedures that AmeriCor had with respect to detoxification?

A. Yes.

Q. What did they provide?

A. I don't have the policy and procedures here with me, but --

Q. Your best recollection.

A. We would screen for signs and symptoms of detox by asking the inmate questions pertaining to his drug use.

Q. What types of questions?

A. What he used, how much he used, when he used last, how long he had been using.

Q. Okay. Anything else?

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2 A. That's -- no. Depending on the
3 answers he would give, you know, we would go
4 further if need be.

5 Q. In the last sentence on the page
6 Bates stamped 561, it says "Individuals at risk
7 for progression to more severe levels of
8 withdrawal will be under constant observation by
9 correctional officers."

10 Do you see that?

11 A. Yes.

12 Q. Did you ever learn of any policy or
13 procedure that was actually implemented, which
14 provided that individuals who were at risk for
15 progression to more severe levels of withdrawal,
16 would be under constant supervision?

17 A. Is there any policy and procedure
18 regarding?

19 Q. Yes. In other words, this is what
20 AmeriCor told the county it would do. Do you
21 know if AmeriCor ever did that?

22 A. Well, we have often had people who
23 were -- inmates who were detoxing on constant
24 supervision; sometimes we don't.

25 Q. And in terms of the times that you

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1
2 do and the times that you don't, are there any
3 procedures and policies in place, practices as to
4 when an inmate would go on constant watch as
5 opposed to when he wouldn't?

6 A. I don't recall if there's policies
7 and procedures. It depends on our assessment --

8 Q. You, as a nurse?

9 A. -- of the inmates. And they're put
10 on a constant if they come into the jail; and
11 then if they happen to be detoxing, they're on a
12 constant, anyhow. You know, if they're not
13 detoxing -- or if they are detoxing, they could
14 be on a fifteen-minute watch.

15 Q. Are there any guidelines that you, as
16 a nurse, follow in determining whether you
17 believe a 15 --

18 A. No, not that I'm aware of.

19 Q. Let me just finish.

20 -- whether you believe a 15-minute or
21 a constant watch should be implemented?

22 A. Not that I'm aware of.

23 Q. Is it in your experience that all
24 inmates who are withdrawing are placed on a
25 constant watch?

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2 A. No, they're not placed on a constant
3 watch just because they're withdrawing.

4 Q. In terms of drug use - history of use,
5 amount of use, how long the use has been for -
6 for example, other attempts to withdraw - are
7 those all things that should be considered as
8 part of your understanding of the practices at
9 the jail in determining whether somebody should
10 be on a constant watch?

11 A. They would be considered.

12 Q. In terms of your training, did you
13 ever learn at any point in time that individuals
14 who are withdrawing sometimes are at a higher
15 risk for suicide because of the withdrawal
16 symptoms?

17 A. I'm aware of that.

18 Q. And that includes both physical and
19 mental effects?

20 A. I'm aware of that, yes.

21 Q. In light of your awareness of that,
22 were you ever aware of any policies that
23 required, as directly as stated in this contract
24 proposal, that individuals who are at risk for
25 progression to more severe levels of withdrawal

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will be under constant supervision?

MR. MELLER: Do you

understand the question?

THE WITNESS: Yeah.

A. Individuals who are at risk for progression to more...

Again, it depends on the severity of the withdrawal, whether...

Q. So, were you aware of anything that specifically said, though, that constant supervision should be implemented?

A. No. Specifically of this here?

Q. Yes.

A. No.

Q. I'm going to show you what was previously marked as Exhibit 26, a Progress Note that Peter Clarke created with respect to Spencer Sinkov. *(Handing)*

Have you ever seen that before?

A. I seen it when I was writing my own note.

Q. When you wrote your own note, did you write it on the same page, or did you make a photocopy and then add it?

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1
2 A. I wrote it in the original chart,
3 where this note was.

4 Q. And you did that on May 20th?

5 A. Correct.

6 Q. Was this before or after Captain
7 LeFever took the medical file?

8 A. It was after Captain LeFever took
9 the medical file.

10 Q. When Captain LeFever took the medical
11 file, did he take the Progress Notes with him?

12 A. He took the whole file.

13 Q. Were the Progress Notes in a part of
14 the file?

15 A. Yes, a part of the file.

16 Q. And did you, at some point in time,
17 get it back --

18 A. Yes.

19 Q. -- at which point you were able to
20 write your note?

21 A. Correct.

22 Q. When was the first time that you saw
23 Clark's Progress Note? Was it before or after
24 Spencer died?

25 A. It was after Spencer died.

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Q. And in terms of where it indicates there, "will monitor," did you have any understanding as to that?

A. I don't know. I didn't write the note.

Q. Did Clarke ever tell you at any point in time verbally, as part of your shift change or elsewhere, that he believes Spencer should be monitored?

A. He told me that he was -- had a history of heroin use and had no signs or symptoms of withdrawal.

Q. Did he ever indicate to you that he believed that signs or symptoms would appear or that he could progress to a more severe level?

A. He did not.

Q. Did anybody, to your knowledge, monitor Spencer at any point in time?

A. For...?

Q. For anything. It says, "will monitor" there. Do you know if he was monitored in any way?

A. Oh. I'm not -- I don't -- not that I'm aware of.

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1
2 Q. Did you ever learn that he was on a
3 15-minute watch?

4 A. After he had committed suicide.

5 Q. Not before?

6 A. No.

7 Q. How did you find out after?

8 A. Somebody had said it to me, he was
9 on a 15-minute. I'm not sure who.

10 Q. Did you have any interactions with
11 Spencer?

12 A. Yes, I did.

13 Q. Do you recall when for the first
14 time?

15 A. On the day he committed suicide.

16 Q. At what point in time?

17 A. It was in the morning time.

18 Q. And can you describe what happened?

19 A. I observed him outside the medical
20 office.

21 Q. Do you know what he was doing
22 outside the medical office?

23 A. I did not know at the time what he
24 was doing outside the medical office.

25 Q. Had you asked to see him?

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A. No.

Q. How was it that you came to see him outside the medical office?

A. The South Housing unit, a female officer, had come over to medical and said that somebody in medical wanted to see me, a female in medical wanted to see me.

Q. A female in South Housing wanted to see you?

A. Correct. In South Housing wanted to see me; correct.

Q. And what, if anything, did that have to do with you seeing Spencer?

A. I thought Spencer was the female.

Q. When you saw him outside medical, was he going from one place to another, or was he actually stopped outside of medical for a period of time?

A. He was sitting, sitting outside medical.

Q. There are chairs there?

A. Yes.

Q. Was anybody with him?

A. Officer Oliver was in the hallway.

Susan Waters

Q. Do you know why he was sitting there?

A. After the fact I know, but at the time I did not know.

Q. What did you find out after the fact?

A. That he was after having a visit with his parents, and Officer Oliver was bringing him back to the unit. And Officer Oliver stopped at medical to supervise inmates who I had called to medical from North Housing unit, and he was going to bring them all back to North Housing unit together.

Q. So, at the time that you saw Spencer, were there other inmates present?

A. Yes.

Q. Do you recall who?

A. No, I don't.

Q. When you saw Spencer, were you seeing any inmates?

A. Yes, I was.

Q. And do you see the inmates individually in the medical office?

A. Yes.

Susan Waters

Q. Is any correction officer with you?

A. Yes; officer Oliver was standing in the hall, looking into the office.

Q. So, he was looking into the medical office, as well as watching the inmates who were in the hall?

A. The inmates were sitting right beside him, yes.

Q. How many inmates were there that day?

A. I don't recall.

Q. And at any point in time did Spencer go into your office?

A. No, he did not.

Q. Do you recall if Wendover, officer Wendover, was present?

A. I don't recall.

Q. Did you at any point in time call Spencer in by his name?

A. No.

Q. "Mr. Sinkov, you're next," or "I'm ready for you," or anything like that?

A. No.

Q. Did you speak with anybody about Spencer at that time, including Spencer?

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2:43 2 A. I spoke to Spencer.

2:44 3 Q. What did you say to him; what did he
2:47 4 say to you?

2:48 5 A. I said to Officer Blanchard, in
2:53 6 front of Spencer, I said, is this the female that
2:56 7 wants... Motrin, I believe it was.

3:00 8 And he started to laugh. And the
3:04 9 officer said, this is not a girl -- this is not a
3:08 10 girl; this is a male.

3:10 11 And I looked at him I said -- to
3:12 12 Officer Blanchard, I said, is this the girl that
13 needs to see me?

3:17 14 And she said, no.

3:20 15 And then I said to him, I says, I
13:24 16 thought you were a girl.

13:24 17 And he laughed, and he said, yes,
13:27 18 everybody thinks that when they see me. He said,
13:30 19 I guess I should cut my hair.

13:32 20 Q. Anything else that you said to him
13:34 21 or that he said to you?

13:35 22 A. No. He -- no; that was it.

13:38 23 Q. Did he say anything to anybody else,
13:40 24 or did anybody else say anything to him that you
13:43 25 could hear?

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1
2 A. Officer Oliver and him had some
3 interaction. They were kidding and joking around
4 about something. I don't know what they were
5 talking about.

6 Q. Where were you when officer Oliver
7 and Spencer were, as you say, kidding and joking?

8 A. I was standing in the doorway.

9 Q. And you don't recall anything about
10 what was said?

11 A. There was some -- nothing. I don't
12 recall what was said.

13 Q. Did you ask him any questions - Spencer?

14 A. No.

15 Q. Did you ask him how he was feeling?

16 A. No.

17 Q. Or whether he needed to see you?

18 A. No.

19 Q. Did you do any evaluation of him or
20 assessment of him at that time?

21 A. No.

22 Q. Did you ever do any kind of
23 evaluation or assessment?

24 A. I did not.

25 Q. Did you, for example, touch his skin

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at all to see if it was clammy or anything like that?

A. I did not.

I observed him sitting there.

Q. Sitting there?

A. Sitting.

Q. Did you ever see him walk?

A. I observed him getting up and walking down the hallway.

Q. Was that when you were done with all of the inmates?

A. Yes.

Q. Who was he walking with at that time?

A. Officer Oliver and one or two other inmates; I'm not sure.

Q. Do you recall any discussion with Spencer at any point in time about whether or not he looked like anyone in a band or a group?

A. Say that again.

Q. Do you recall any discussion about whether or not he looked like somebody from a group, from a band or a group, a singing group?

A. With -- he didn't -- no.

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Q. No; that you heard.

A. oh, yes. officer oliver said that he reminded him of somebody in some band or something.

Q. And do you recall if spencer replied?

A. I don't recall what he said.

Q. what do you recall about what spencer was wearing when you saw him?

A. I can't say for sure what he was wearing.

Q. Do you remember if he had a sweatshirt on?

A. I don't.

Q. Do you recall if he had anything over his head, like a sweatshirt over his head or anything like that?

A. No.

Q. Did you make any observations of his height and weight?

A. I noticed that he was very thin.

Q. when you say "very thin," what do you mean?

A. Thin. He was -- he was thin, of

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1 thin build. I remember he had very defined jaw
2 bones.

3 Q. That his face looked sunken in, in
4 terms of being thin?

5 A. I just remember he was good-looking.
6 He was -- I thought he was a girl. He was pretty
7 looking.

8 Q. In terms of his physical appearance
9 that day, did you observe anything in terms of
10 whether or not he had a runny nose?

11 A. No.

12 Q. Did you look for that?

13 A. No.

14 Q. Did you look to see whether or not
15 his eyes were watery at all?

16 A. I stood from here to you away from
17 him and looked at him, and he appeared to be fine.

18 Q. What was the -- you know, in terms
19 of his complexion, did he look pale at all?

20 A. No.

21 Q. He didn't have any circles under his
22 eyes or anything like that?

23 A. I don't recall seeing that.

24 Q. And was he cuffed at the time?

Susan Waters

A. I don't recall.

Q. Did you ever see Exhibit 4, a P-1 that was done with respect to Spencer Sinkov?

(Hanging)

A. *(Witness peruses exhibit)*

Did I see it before or after?

Q. At any point.

A. It was in his chart, you know. So, I'm not sure if I saw this or not.

Q. Do you know if, as a matter of, you know, the practices in the Putnam County Jail, P-1s, those types of medicals, are delivered to medical?

A. Yes, they're usually delivered to medical.

Q. Are they usually delivered when the inmate comes into the facility?

A. After the screening and intake has been done.

Q. And where are they kept in medical? Do they go into the inmate's specific medical chart or somewhere else?

A. In the chart.

Q. Do you recall if you ever saw that

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at any point in time prior to Spencer's death?

A. I don't recall.

Q. Take a look at Exhibit 29. *(Handing)*

A. *(Witness peruses exhibit)*

Q. Is that a Shift Report that you completed for your shift on May 20th of 2006?

A. Yes.

Q. You don't note any interaction there with Spencer; correct?

A. No.

Q. And in terms of the other things noted there, can you tell me, by looking at that, who the inmate or inmates were that you saw in medical at the time that Spencer was sitting outside of medical?

A. Most likely, it is the first inmate - Brady.

Q. Do you recall?

A. I don't recall; but at 11 a.m., we do blood sugars and that's -- I would have had him over in medical, doing a blood sugar.

Q. Do you remember if that's what you were doing at the time that Spencer --

A. Yes.

Susan Waters

Q. -- was sitting in the chairs?

A. That's what I was doing.

Q. There's no indication on your
Shift Report as to the time that you saw Brady.

A. We do blood sugars at 11 a.m.

Q. Okay. But there's no indication on
the form, itself, what time you did it that day?

A. On this form, on here? *(Indicating)*

Q. Right.

A. No.

Q. Would you have created a Progress
Note on Brady's chart with respect to the blood
sugar?

A. I don't recall whether I did or not.

Q. Did you ever complete any kind of a
referral form for Spencer Sinkov?

A. No.

Q. Take a look, if you would, at
Exhibit 5. *(Handing)*

A. *(Witness peruses exhibit)* Okay.

Q. Is that a document that you created?

A. Yes.

Q. That's your handwriting; correct?

A. Correct.

Susan Waters

Q. And it is a referral form?

A. Right.

Q. It's a mental health referral form;
right?

A. Correct.

Q. Do you recall when you completed
that?

A. I don't recall when I done this.

Q. Do you have a recollection of doing
it now that you're seeing it?

A. I don't have a recollection of doing
it.

Q. You note on there -- in terms of the
various sections, "1B: Explain observations."

A. Um-hum.

Q. Do you see that?

A. Correct.

Q. Can you tell us what you wrote
there?

A. "History of substance abuse and
family problems."

Q. Do you have any recollection, as you
sit here today, as to where you got the
information about any history of substance abuse?

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1 A. From Peter Clarke.

2 Q. Did you ever speak with Peter Clarke
3 about whether or not he had performed a referral?
4

5 A. I do not recall.

6 Q. For example, do you know if both you
7 and Clarke referred Spencer to Mental Health?

8 A. I'm not sure if he did.

9 Q. Do you know if you did this because
10 Clarke failed to?

11 A. It's possible.

12 Q. The next section in terms of the
13 "history of substance abuse," and then you say,
14 "...and family problems."

15 A. Um-hum.

16 Q. Do you recall what you based that
17 upon?

18 A. I don't recall what I based it on.

19 Q. Did you have any conversations with
20 Spencer Sinkov at any time about any family
21 problems?

22 A. Not that I recall.

23 Q. Do you recall if you reviewed his
24 suicide screening form before you filled out the
25 Mental Health referral sheet?

Susan Waters

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2 A. I don't recall.

3 Q. And there's no time indicated on
4 that referral; correct?

5 A. No; just a date.

6 Q. And in terms of the referral form,
7 what happens once you complete it?

8 A. I put it -- it goes in his chart,
9 his file.

10 Q. Anything else?

11 A. And I put him down to see either the
12 social worker or a psychiatrist.

13 Q. Do you recall what you did?

14 A. I don't recall.

15 Q. Do you recall if you put him down to
16 see anyone?

17 A. I don't recall if I did.

18 Q. If you did, would you have to have
19 noted it on the Mental Health referral sheet?

20 A. No.

21 Q. You don't put that anywhere?

22 A. That I put him down? No.

23 Q. When is the social worker and/or
24 psychiatrist there to see inmates?

25 A. It varies.

Susan Waters

Q. So, in terms of -- this was a Saturday. When would be the next possible date that a social worker or psychiatrist would have been available?

A. Usually, Monday.

Q. And do you know if in that case the list was created over the weekend for the Monday visits?

A. The list is created from the last visit, onwards.

Q. So, is that something that's in a written form?

A. We write it into the doctor's book.

Q. And then what happens once the doctor sees the inmate? Does that form stay in place, or does something happen to it?

A. I believe it stays there.

MS. BERG: I'm going to call for the production of any of the lists that were for the social worker or the psychiatrist or psychologist.

DOCUMENT/DATA REQUESTED: _____

Q. Are you aware of any policies or procedures regarding CPR, including when CPR can

Susan Waters

be stopped?

A. Policies and procedures of AmeriCor?

Q. Yes.

A. No.

Q. Are you aware of any other policies or procedures?

A. No.

Q. Did anybody ever indicate to you that you, as a nurse for AmeriCor, had the authority to stop CPR?

A. No.

Q. Do you have to consult with anybody before you stop CPR?

A. Not that I'm aware of.

Q. Did there come a point in time when the State Commission of Correction conducted an investigation?

A. Yes.

Q. Do you recall how you found out about that?

A. My supervisor notified me.

Q. Was that Mr. DiMattio?

A. Correct.

Q. What did he tell you about it?

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A. That the State Commission is coming down to speak to everybody involved in the Sinkov case.

Q. Did he say anything else?

A. No.

Q. Did you say anything?

A. I said I wouldn't be here.

Q. What does that mean?

A. I was out of the country at the time.

Q. Did you ever meet with the State Commission?

A. I never did.

Q. Other than Investigator DePerno, did you give a statement to anyone?

A. No.

MS. BERG: I'm going to have marked as Exhibit 33 a copy of the Witness' Statement dated May 20th, 2006.

(Whereupon, 5/20/06 Witness Statement was marked as Plaintiff's Exhibit No. 33, for id.)

Q. Take a look at Exhibit 33. *(Handing)*

A. *(Witness complies)*

Susan Waters

Q. Is that the statement that you gave to Investigator DePerno?

A. Yes.

Q. Was anyone else present when you spoke to him?

A. No.

Q. Did you review any documents, either before or during your meeting with him?

A. No.

Q. You indicate that, "At approximately 1:53 p.m., I received a call while I was in the medical office. I don't know who it was that called me."

Do you see that?

A. Yes.

Q. Do you recall now that it was Officer Piazza?

A. Correct.

Q. But you didn't remember that on the day?

A. Right at that time, no, I didn't remember that it was him.

Q. How did you know that it was 1:53 p.m.?

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2 A. Because I remember looking at my --
3 the clock at about ten to two, and I was going to
4 call somebody for a History and Physical, and
5 that's when I received this call.

6 Q. Did you look at the clock at the
7 time that you received the call?

8 A. No.

9 Q. You're basing it on the last time
10 you looked at the clock?

11 A. In or around that time.

12 Q. You said, "The CO told me there
13 seems to be a problem in North." I grabbed a
14 pair of gloves, locked my office, and ran to
15 North Housing desk. Officer Blanchard stated to
16 me that there was somebody hanging."

17 Did she say that to you at the desk?

18 A. While she was getting the scissors.

19 Q. In terms of the brief conversation
20 that you had with Spencer at approximately
21 11 o'clock a.m., you don't put anything in the
22 statement about the details of that conversation;
23 correct?

24 A. Correct.

25 Q. Did officer -- or Investigator DePerno

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ask you about that?

A. I can't recall whether he did or not.

Q. Do you recall if there was any reason why you didn't include the substance of the conversation in your sworn statement?

A. I don't know why I didn't include that. I told him that I had seen him at 11, and he didn't ask anything more than that.

Q. In terms of the sequence of events, bottom of the paragraph -- of the statement -- excuse me -- four lines from the bottom, the middle of the page, quote, "I started CPR with the help of Officer Bartley."

A. Correct.

Q. From there, "Approximately 15 minutes later, we stopped CPR. Investigator Nappi had arrived at this time and stated he was the arrest from last night. This is when I found out who the inmate was. I notified HSA, Rich DiMattio. He is the head nurse in charge. I asked him to call Mr. Duffy, who is the AmeriCor president. At this time the ambulance arrived with the paramedic and took over the scene."

Susan Waters

Do you see that?

A. Correct.

Q. In terms of stopping CPR, did you stop CPR, have the conversation with DiMattio, and then the paramedics arrived?

A. No, no.

Q. That's the way it reads here, though --

A. I know.

Q. -- correct?

A. Yes, that is the way it reads.

Q. You signed this at the bottom --

A. Right.

Q. -- the 20th day of May, 2006? Yes?

A. Correct.

Q. And you signed it under penalty of perjury; correct?

A. Okay.

Q. Did anybody tell you, prior to signing this, that it was a crime to sign a statement that was false?

MR. MELLER: Note my objection.

What are you asking?